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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/402,274	12/16/1999	ITSUO WATANABE	7426-0067	5733

7590

04/22/2003

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SUITE PH-1  
ARLINGTON, VA 22204

EXAMINER
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AYLWARD, DAVID E

ART UNIT	PAPER NUMBER
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1712

17

DATE MAILED: 04/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/402274

Applicant(s)

Watanabe et al.

Examiner

A7/wand

Group Art Unit

1712

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 12/02
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1, 2, 8, 9, 19-46 is/are pending in the application.
- Of the above claim(s) 8, 9, 19-23, 25-27, 34, 35, 37, 39-45 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1, 24, 28, 29, 38, 46 is/are rejected.
- ☒ Claim(s) 2, 30-33 is/are objected to.
- ☒ Claim(s) 1, 2, 8, 9, 19-46 are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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1. Traverses to the restriction requirement were made at the proper time in Paper No. 12 received in February 2002 along with the election to satisfy that restriction. The traverses were dealt with and the restriction was made FINAL in Paper No. 13 of the last Office action mailed in June of 2002. The additional traverses in Paper No. 15 are untimely and will not be considered. However it is noted that these traverses seem to be based on a failure to appreciate letter paragraph No. 12 of Paper No. 11 in which the restriction was originally set out. That paragraph indicates that claims 23-49 of the preliminary amendment entered at the filing date of this case were renumbered claims 19-45 because there were only 18 claims in the original specification. Thus the claim filed most recently has been renumbered from claim 50 to claim 46.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claim 38 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. With the renumbering as explained above, it can be seen claim 38 does depend from cancelled claim 12.

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5. Claims 1, 24, 28, 29, 38 and 46 are rejected under 35 U.S.C. § 102(a) as being anticipated by JP 11279511, JP '511.

6. This reference is applied as cited in the prior Office action.

7. Claims 1, 24, 28, 29, 36 and 46 are rejected under 35 U.S.C. § 102(a) as being anticipated by JP 11279513.

8. This reference is applied as cited in the prior Office action. Both this rejection and the one over JP '511 are maintained because there are no certified translations of priority documents in this case.

9. Claims 2 and 30-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS

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ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Aylward whose telephone number is (703) 308-2372. The examiner can normally be reached on Monday through Friday from 7:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Dawson, can be reached on (703) 308-2340. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

*DEa*  
DAylward:cdc  
April 17, 2003



Robert Dawson  
Supervisory Patent Examiner  
Technology Center 1700